

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR S-99-0401 JAM EFB

vs.

BRANDY VEGA TELLEZ,

Movant.

ORDER

Movant, a federal prisoner proceeding without counsel, has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255.¹ Dckt. No. 156. Since movant may be entitled to the requested relief, respondent is directed to file an answer, motion or other response within sixty days of the date of this order. *See* Rule 4(b), Rules Governing Section 2255 Proceedings.

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¹ While movant purports to bring his motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure and/or Rule 36 of the Federal Rules of Criminal Procedure, the court construes the motion as one brought pursuant to 28 U.S.C. § 2255. *See Hernandez v. Campbell*, 204 F.3d 861, 864-65 (9th Cir. 2000) (“Generally, motions to contest the legality of a sentence must be filed under § 2255”).

1 Any response shall be accompanied by any and all transcripts or other documents
2 relevant to the determination of the issues presented in the § 2255 motion. Rule 5, Rules
3 Governing Section 2255 Proceedings.

4 Movant's reply to respondent's answer, if any, is due on or before thirty days from the
5 date respondent's answer is filed. *Id.*

6 If the response to the § 2255 motion is a motion, movant's opposition or statement of
7 non-opposition shall be filed and served within 30 days of service of the motion, and
8 respondents' reply, if any, shall be filed within 14 days thereafter.

9 The Clerk of the Court shall serve a copy of this order, together with a copy of movant's
10 March 25, 2011 motion on the United States Attorney or his authorized representative.

11 So ordered.

12 DATED: April 5, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE